REMARKS

By the foregoing preliminary amendment, which is submitted with a request for continued examination (RCE), the Examiner's reconsideration of this application in view of the above amendments and the arguments urged below is respectfully requested.

In paragraph 1 of the office action, the Examiner disagrees with Applicants' prior arguments. The Examiner contends that the Bell reference does teach a user selection, pointing to column 5, lines 60-64 of the Bell reference. The Examiner also takes the position that because the Bell reference explicitly teaches the permission of user selection, it is explicit to combine the teaching of McGaughey, where in response to the previous step, the second electronic device automatically displays a message indicating a user selection. Further, the Examiner indicates that the difference between Bell's invention and Applicants' invention is that Bell teaches the user selection prior to initiating the session and Applicants' is during a session. With respect to that difference, the Examiner indicates that the McGaughey reference teaches that the user could select which mode during a session.

Applicants are not entirely clear on the exact logic behind the Examiner's rejection of claims 1-20. Applicants note that the Examiner rejects claims 1-20 under 35 U.S.C. Section 103 as unpatentable over Bell (issued July 29, 2003) in view of McGaughey (issued December 11, 1990). Applicants respectfully traverse the Examiner's rejections and submit that there is no motivation in either reference to combine them as suggested by the Examiner. The Examiner is simply relying on the benefit of hindsight by reading into Applicants' own teachings in making the combination. The Examiner's attention is drawn to the cases indicated below.

In re Raynes, 7 F.3d 1037, 1039 (Fed. Cir. 1993):

When determining whether a new combination of known elements would have been obvious in terms of 35 U.S.C. § 103, the analytic focus is upon the state of knowledge at the time the invention was made. The Commissioner bears the burden of showing that such knowledge provided some teaching, suggestion, or motivation to make the particular combination that was made by the applicant. *In re Oetiker,* 977 F.2d 1443, 1445-47, 24 U.S.P.Q.2D (BNA) 1443, 1444-46 (Fed. Cir. 1992); *In re Piasecki,* 745 F.2d 1468, 1471-72, 223 U.S.P.Q. (BNA) 785, 788 (Fed. Cir. 1984). This determination is made from the viewpoint of the hypothetical person of ordinary skill in the field of the invention. 35 U.S.C. § 103; *In re Gorman,* 933 F.2d 982, 986, 18 U.S.P.Q.2D (BNA) 1885, 1888 (Fed. Cir. 1991).

In re Deminski, 796 F.2d 436, 442 (Fed. Cir. 1986):

"There was no suggestion in the prior art to provide Deminski with the motivation to design the valve assembly so that it would be removable as a unit. The board argues that if Pocock had followed the "common practice" of attaching the valve stem to the valve structure, then the valve assembly would be removable as a unit. The only way the board could have arrived at its conclusion was through hindsight analysis by reading into the art Deminski's own teachings. Hindsight analysis is clearly improper, since the statutory test is whether "the subject matter as a whole would have been obvious at the time the invention was made." 35 U.S.C. § 103 (1982); *In re Sponnoble*, 56 C.C.P.A. 823, 405 F.2d 578, 585, 160 U.S.P.Q. (BNA) 237, 243 (CCPA 1969)."

Conclusion

The stated grounds of rejection has been properly traversed. Moreover, the independent claims (1, 8, and 14) have been amended . Applicant therefore respectfully requests the Examiner to reconsider this application in view of the arguments urged above and the amendments to the claims. The Examiner is invited to telephone the undersigned representative if an interview might expedite allowance of this application.

Respectfully submitted,

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